



Ohio Consumers' Counsel

Robert S. Tongren
Consumers' Counsel

May 21, 1997

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William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: FCC Docket No. 97-113

Dear Mr. Caton:

Enclosed please find the original and nine (9) copies of the Ohio Consumers' Counsel's Initial Comments to be filed in the above-referenced proceeding.

Please date-stamp and return the additional copies in the pre-addressed, postage prepaid envelope to acknowledge receipt.

Sincerely,

Andrea M. Kelsey
Andrea M. Kelsey
Assistant Consumers' Counsel

AMK/mvw
Enclosure

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of)

)

GC Docket No. 97-113

Electronic Filing of Documents in)

FCC Docket No. 97-113

Rulemaking Proceedings)

THE OHIO CONSUMERS' COUNSEL'S
INITIAL COMMENTS

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**THE OHIO CONSUMERS' COUNSEL'S
INITIAL COMMENTS**

SUMMARY

Robert S. Tongren, in his capacity as the Ohio Consumers' Counsel (OCC), the statutory representative of Ohio's residential telecommunications consumers, concurs in most of the rules that the Federal Communications Commission (Commission), through its Office of General Counsel (OGC), proposes in this docket. Nevertheless, the OCC has some recommendations and concerns that are outlined in these comments. The recommendations and concerns fall chiefly in the areas of network security, the procedures and formats proposed for electronic filing, and accessibility to the Commission's technology.

I. INTRODUCTION

Robert S. Tongren, in his capacity as the Ohio Consumers' Counsel (OCC), the statutory representative of Ohio's residential telecommunications consumers,¹ is pleased to submit these comments on the electronic filing rules proposed in the Notice of Proposed Rulemaking (NPRM) issued by the Office of General Counsel (OGC) and adopted on April 3, 1997 by the Federal Communications Commission (Commission). The OCC has narrowly focused these Initial Comments on those issues that most affect the OCC's daily work flow and technical capabilities. The OCC reserves the right to comment on other issues in Reply Comments, in response to the submissions of other parties.

II. DISCUSSION

The OCC welcomes the FCC's electronic filing initiative. This initiative is a forward-looking adaptation to the technologies now available to many Americans, and promises to save the OCC, other government agencies, businesses, and individuals the expenses incurred in paper filings, both in personnel time and in document costs. In a nutshell, the Commission's proceedings will be less labor-intensive, thus more efficient and less costly.

The OGC concludes that it is in the public interest to allow formal electronic filings. NPRM at ¶¶8, 23. The OCC concurs with this conclusion, and hence concurs with most of the OGC proposals. The OCC does wish, however, to bring several

¹ Chapter 4911, Ohio Rev. Code.

concerns to the Commission's attention. These concerns can be summarized as follows:

A) security; B) filing procedures and formats; and C) accessibility of the Commission's technology.

A. SECURITY

The OCC urges the Commission to erect a secure firewall. The OGC proposes that the electronic system "will utilize a secure database that can only be modified by authorized FCC staff." NPRM at ¶15. This is too vague a description to satisfy the OCC that security will be sufficient. As proposed, the Commission proposal may be an open invitation to hackers to invade its system, which at worst could lead to a compromise of the entire system's integrity. The OGC states that "Electronic comments can be forged, but the risk appears to be no greater than with paper comments." NPRM at ¶16.

The OCC takes the position that forgeries will be easier under this scheme. As proposed, the Commission's plan will not allow it to detect forgeries through comparison with paper copies. *Id.* Instead, parties will have to monitor their comments to detect whether any alterations have been made to their documents. *Id.* If a satisfactory security system is in place, the Commission staff can monitor filings far more efficiently than the parties. They need only to detect security breaches of the Commission's system, which the parties cannot do. There may be solutions to the security problems that do not impose additional duties on Commission staff, however. See the discussion of the OCC's password recommendation, *infra*.

The OCC believes that many companies and agencies who regularly comment in Commission rulemakings will agree with this view of security. The Public Utilities

Commission of Ohio (PUCO) has recently formed a focus group, which includes the OCC, to investigate the feasibility of electronic filing. The security issue was of major concern to most members. The OGC's suggestion that entities having security concerns file paper copies in lieu of electronic filing (NPRM at ¶15) may discourage many potential users from employing the Commission's electronic filing capability, and hence rob the Commission's electronic filing system of overall utility.

Members of the PUCO's focus group have suggested the use of passwords to alleviate the imposition of administrative duties on both PUCO staff and entities who electronically submit documents. The PUCO is evaluating this solution. Passwords may be a simple yet effective response to the security concerns that may be expressed by commenters in this docket.

B. FILING PROCEDURES AND FORMATS

Late-filed documents should continue to be treated as informal or ex parte comments (NPRM at ¶19) and, as the Commission proposes, the filing date for electronic comments should be the day that the Commission receives them (NPRM at ¶18). In addition to informing commenting parties whether their comments are timely filed (*id.*), the Commission might build into its website a "time/date stamp," which would appear on comments so that other parties know whether comments are timely.

The OGC has proposed that it promulgate guidelines, as opposed to rules, to govern specific filing procedures, formatting, and alternative methods of obtaining electronically filed documents. NPRM at ¶21. These should be as simple as possible. In response to the questions posed in ¶22 of the NPRM, the OCC recommends that file size

limits should be specified in bytes, although any format should be accepted, and paragraph numbering should be required, thus eliminating page citation problems. Separate filing requirements for the Bureau or Office handling a proceeding and for the FCC Commissioners would be the Commission's responsibility if commenting parties are permitted to submit only one electronic document. *Id.*; NPRM at ¶12.

As to formats, the OCC points out that an Adobe Acrobat reader permits any type of document to be converted into an image file, leaving the original formatting unchanged. These readers can be downloaded at no cost from the Internet.

C. ACCESSIBILITY OF THE COMMISSION'S TECHNOLOGY

Some individuals, small businesses and nonprofit and governmental agencies who may wish to participate in Commission rulemakings do not have access to the Internet. Of those who do, some may not have access to Netscape and, of those who can access Netscape, some may not have the version supporting the Commission's comment website, which requires Netscape 3.0. The OCC falls into this category -- it has access only through Netscape 1.22. To focus on Netscape is also to ignore that many potential commenters may use other commercially available Web browsers. At the very least, the Commission should make its website available (if technologically feasible) to would-be commenters through as many Web browsers as possible. In addition, the FCC should offer alternatives for those commenters without access to certain technologies, *i.e.*, the e-mail or diskette options that are available today.

The OCC has also experienced difficulty in downloading Commission files. The office has, on occasion, been unable to download certain Commission Orders (most

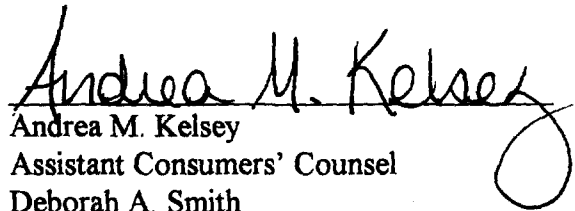
recently the universal service decision released May 8, 1997 in CC Docket No. 96-45) because of lack of memory on the OCC's system. In addition, the OCC has occasionally been unable to convert Word Perfect documents to our word-processing program, Microsoft Word. Apparently our technology cannot handle certain volumes and programs. While large companies may not experience this problem, undoubtedly many small entities, with budget constraints and priorities, are limited in their technological abilities. The OCC recommends that the Commission explore this issue so that the Commission's files can be as widely available to as many users as possible.

III. CONCLUSION

The Commission's proposal is a significant advance in utilizing currently available information technologies to replace outmoded or clumsy procedures. The optimal utilization of these technologies in the rulemaking context, however, requires the Commission to strike a balance between the most advanced technology available and that available to a wide range of users who hope to use their technology to participate in the Commission's rulemaking proceedings. The OCC hopes that these suggestions and recommendations will assist the Commission in striking that balance.

Respectfully submitted,

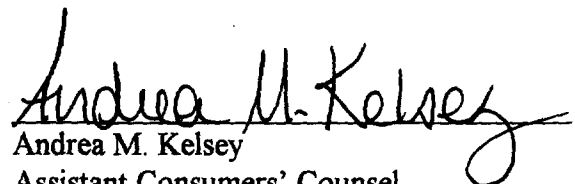
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CERTIFICATE OF SERVICE

I hereby certify that the Ohio Consumers' Counsel's Initial Comments, have been served by overnight mail to the International Transcription Service, on this 21st day of May, 1997.


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Assistant Consumers' Counsel